



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 08733-98
15 June 2000

CDB [REDACTED] RET
[REDACTED]
[REDACTED]

Dear Commande [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 18 June 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted that the reporting senior's letter of 19 October 1998 did not support your assertion that he marked you "Must Promote" (second best) rather than "Early Promote" (best) because he improperly applied to you the competitive category limits for non-AED (Aerospace Engineering Duty) Officers. Since the Board found no defect in your performance record, they had no basis to remove your failures by the FY 98 and 99 AED Line Captain Selection Boards. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

873398

1610
PERS-311
18 June 1999

**MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS**

Via: PERS/BCNR Coordinator (PERS-00XCB)

Subj: CDD [REDACTED] N US [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests the removal of his fitness report for the period 1 September 1995 to 18 April 1996 or change his promotion recommendation from Must Promote to Early Promote.

2. Based on our review of the material provided, we find the following:

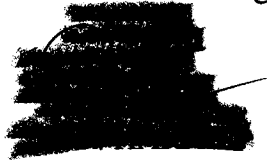
a. A review of the member's headquarters record revealed the report in question to be on file. It is signed by the member acknowledging the contents of the report and his right to submit a statement. The member did not desire to submit a statement.

b. The member requests the promotion recommendation be moved from "Must Promote to Early Promote". The member provided a letter from the reporting senior because the member failed to select for Captain. Nothing provided in the member's petition or in the reporting senior's letter explains how the report constitutes an error or injustice. Indeed, the only rationale provided is that Command [REDACTED] failed to select to Captain.

c. We cannot make the administrative change or remove the fitness report as requested. Only the reporting senior who signed the report can request changes or submit supplementary material for file in the member's record. Any supplemental material submitted must be submitted in accordance with reference (a), Annex P, paragraph P-4c. It should be noted that [REDACTED] in a summary group by himself.

d. Failure of selection or enhancement of promotion opportunity does not justify upgrading or removal of a fitness report.

- e. The member does not prove the report to be unjust or in error.
3. We recommend the member's record remain unchanged.

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Head, Performance
Evaluation Branch